

Publication Date: September 2001

DCL ID: GEN-01-13

Summary: Recent Terrorist Attacks -- Persons Affected by Military Mobilization

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Summary: This letter is the third in a series that provides guidance regarding the administration of the Federal student financial aid programs authorized under Title IV of the Higher Education Act as a result of the terrorist attacks on the United States. **GEN-01-11** (<http://ifap.ed.gov/dpcletters/gen0111.html>) addresses the immediate needs of borrowers who are in repayment on federal student loans. **GEN-01-12** (<http://ifap.ed.gov/dpcletters/gen0112.html>) discusses upcoming institutional deadlines that may affect certain schools. This letter deals with the treatment of students and borrowers who are members of the National Guard or Reserves and who have been ordered to active military duty as a result of the recent terrorist attacks. A fourth letter, to be published shortly, will address other issues related to regulatory and administrative relief for those affected by the terrorist attacks, including the treatment of students who withdraw from school.

Dear Colleague:

As a result of the recent terrorist attacks on the United States President Bush authorized, on September 14, 2001, the call-up of members of the National Guard and the Ready Reserves to active duty. Regular active duty members of the Armed Forces may also be reassigned to other duty stations. It is likely that there will be students and Title IV loan borrowers who will be ordered to military duty as part of this military mobilization. We are providing the following guidance to schools, including in their role as Federal Perkins Loan lenders, and to lenders and guaranty agencies in the Federal Family Education Loan (FFEL) Program on the treatment of military personnel who are activated or reassigned for a period of more than 30 days. The Secretary will treat borrowers who are ordered to active duty and who have Direct Loans or other loans held by the Department in accordance with this guidance.

Loan Issues

Borrowers whose Title IV loans are in an in-school, in-school deferment, or grace period status

If a borrower's loans are in an in-school status, an in-school deferment status, or in a grace period status when the borrower is ordered to active duty or reassigned, the lender must maintain the loans in that status during the period of the borrower's active duty service or reassignment, plus the time necessary for the borrower to resume enrollment in the next regular enrollment period that is reasonably available to the borrower, if the borrower wishes to go back to school. However, this maintenance of loan status may not exceed a total of three years including the period of time necessary for the borrower to resume enrollment. Additionally, if the loan was in a grace period status at the time the borrower was ordered to active duty, the period of time during which the borrower was serving on active duty is excluded and the borrower would receive their full grace period in the future.

Borrowers whose Title IV loans are in repayment (other than in an in-school deferment status)

For borrowers whose loans are in repayment (other than those in an in-school deferment status) lenders or Perkins schools must grant a forbearance for the expected period of the borrower's active duty service, beginning on the first day of active duty, not to exceed one year. The forbearance must be granted based upon the request of the borrower, the borrower's family or another reliable source. The request need not be in writing and the forbearance can be granted without supporting documentation and without a written forbearance agreement. The reasons for granting the forbearance must be documented in the borrower's loan records. Forbearance beyond the initial period will require supporting documentation and a written agreement with the borrower, unless we provide guidance extending the one-year limitation. During the initial forbearance process, lenders are encouraged to examine the borrower's eligibility for a military or other deferment.

Borrowers whose loans are in default status

If a borrower is in default on a loan, the guaranty agency or Perkins school must, upon being notified that the borrower has been called to active duty, cease all collection activities for the expected period of the borrower's military service, through September 14, 2002, unless we provide guidance extending this period. Collection activities must resume no later than 30 days after the end of the borrower's military service or September 14, 2002, whichever is earlier. We will treat borrowers with defaulted loans held by the Department the same way.

Applicability of the Soldiers' and Sailors' Civil Relief Act of 1940

The Soldiers' and Sailors' Civil Relief Act of 1940 only applies if a FFEL lender or guaranty agency is suing a borrower who is covered by the Act. The Act prevents a creditor from obtaining a default judgment in court. It does not prohibit other collection efforts. A borrower's interest rate is not affected by the provision of the Act restricting interest charged to certain borrowers in military service. Section 428(d) of the Higher Education Act states that no provision of any law which limits the interest rate on a loan shall apply to the FFEL Program.

Other Issues

Institutional Charges and Refunds

We strongly encourage schools to provide a full refund of required tuition, fees, and other institutional charges, or to provide a credit in a comparable amount against future charges for students who are forced to withdraw from school as a result of the military mobilization. In addition, we urge schools to consider providing easy and flexible re-enrollment options to affected students.

Return of Title IV Funds Treatment

If a Title IV eligible student withdraws because of being called to active duty, or has been otherwise impacted by the military mobilization, the school must perform the Return of Title IV Funds calculations that are required by the statute and regulations (34 CFR 668.22). If those calculations result in the school being required to return funds to one or more of the Title IV programs, it must do so. In many cases such a return of funds by the school will reduce the student's loan debt. An institution, however, is not required to collect an overpayment of grant funds based on the Return of Title IV Funds calculation for such a student. Therefore, the school is not required to contact the student, notify NSLDS, or refer the overpayment to the Department in these cases. Other issues relating to the Return of Title IV Funds requirements, including treatment for other students affected by the terrorist attacks, will be included in an upcoming letter.

Sincerely,

William D. Hansen
Deputy Secretary